

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

DICKERSON LUMBER EP COMPANY

COMPLAINANT

v.

FARMERS RURAL ELECTRIC COOPERATIVE  
and EAST KENTUCKY POWER COMPANY

DEFENDANTS

CASE NO. 9892

O R D E R

On March 13, 1987, the Public Service Commission ordered Farmers Rural Electric Cooperative Corporation ("Farmers") and East Kentucky Power Cooperative, Inc., ("EKPC") to respond to Dickerson Lumber EP Company's ("Dickerson's") complaint. On April 13, 1987, EKPC and Farmers responded to Dickerson's complaint. EKPC contended that Dickerson did not provide sufficient information for EKPC to address statements concerning Dickerson's generation. EKPC did indicate that the attachment to Dickerson's petition appeared to be accurate reproductions of the correspondence. Further, EKPC argued that the gist of the dispute was on whether payments for avoided capacity costs were appropriate but also indicated a proceeding would be necessary to revise tariffs for avoided energy costs. EKPC contended that "[Dickerson] cannot provide such capacity and is not entitled to

any payment of avoided capacity costs."<sup>1</sup> Finally, EKPC indicated that it has not developed a method to calculate avoided capacity costs and did not propose one at this time. EKPC did indicate a willingness to continue to work with Dickerson on the purchase of its cogenerated power.

On May 6, 1987, Dickerson responded to EKPC's Answer of Formal Complaint. Dickerson contends that EKPC and Farmers have misinterpreted its request and that Dickerson has now requested to sell power on a "buy all-sell all" basis as permitted under 807 KAR 5:054, Section (7)(b).<sup>2</sup> Dickerson argues that the EKPC system growth is such that even small increments of power could result in construction delays. In addition to its response to EKPC's April 13 filing, Dickerson in a separate motion proposed that the Commission establish a timetable for discovery and hearing on its complaint.<sup>3</sup>

The Commission in reviewing EKPC's response is of the opinion that EKPC and Farmers have failed to address its concerns with the determination of avoided capacity costs. The Commission in Case No. 8566 stated:

There are unique conditions on a utility's system which may obviate the necessity for capacity payments. If a utility demonstrates

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- <sup>1</sup> Response of East Kentucky Power Cooperative, Inc., and Farmers Rural Electric Cooperative Corporation, April 13, 1987, page 3.
  - <sup>2</sup> Response to EKPC's Answer of Formal Complaint, May 6, 1987, page 2.
  - <sup>3</sup> Motion for Order Establishing Timetable and Discovery, May 6, 1987.

to the Commission's satisfaction that it simultaneously faces insignificant load growth, excess capacity, minimum off-system sales and is neither planning nor constructing capacity within its 10-year planning horizon then the utility cannot avoid capacity related costs at that time so a capacity payment would not be justified. However, the Commission emphasizes that it would be contradictory for utilities to argue for zero avoided capacity costs while proceeding to plan for or construct generating facilities. The burden is on the utility to demonstrate zero avoided capacity costs.<sup>4</sup>

EKPC's and Farmers' response to Dickerson's complaint does not address these conditions as such and have failed to demonstrate zero capacity costs. The Commission is aware that EKPC has not deferred or cancelled the construction of the J. K. Smith power plant and that J. K. Smith is clearly within the 10-year planning horizon described above. Therefore, the Commission will require EKPC to prepare and file a method for determining avoided capacity costs including estimates of their avoided capacity costs. In addition, EKPC will be required to address the planning and construction conditions described above as these conditions relate to its system. Finally, the Commission will require EKPC to file updated avoided energy costs and related purchase rates. The Commission does encourage EKPC and member RECCs to meet with Dickerson and Rowan County Association of Power Producers ("RCAPP") to resolve these issues. The Commission will set forth a procedural schedule in Appendix A of this Order.

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<sup>4</sup> Case No. 8566, Setting Rates and Terms and Conditions of Purchase of Electric Power from Small Power Producers and Cogenerators by Regulated Electric Utilities, page 5.

Since EKPC's response, the Commission has received numerous motions from all parties concerning this case. The Commission will address the motions in this Order.

On May 6, 1987, RCAPP filed a motion to intervene in this proceeding. On May 19, 1987, the Commission granted intervenor status to RCAPP. On May 27, 1987, EKPC filed a motion requesting the Commission rescind its Order granting RCAPP intervenor status. As grounds for its motion, EKPC contended that "EKPC was in the process of finalizing objections to the Complainant's motion when the motion for intervention was granted by the Commission."<sup>5</sup> EKPC further contends "...that the proposed intervenors are not currently operators of qualified facilities ("QFs") and therefore they have no standing under the Commission's regulations, to participate in this case...."<sup>6</sup> On June 1, 1987, Farmers filed its motion requesting that the Commission rescind its Order granting RCAPP intervenor status. Farmers contended that RCAPP had no connection with the subject matter and that the addition of RCAPP would make the litigation cumbersome. On June 11, 1987, Fleming-Mason Rural Electric Cooperative Corporation ("Fleming-Mason") filed a similar motion requesting that the Commission rescind its Order granting RCAPP intervenor status. Fleming-Mason adopted EKPC's objections to RCAPP's intervention by reference.

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<sup>5</sup> EKPC's Motion to Rescind Order of Intervention and Allow Filing of Objections, page 1.

<sup>6</sup> EKPC's Objections to Motions, page 2.

On June 1, 1987, Dickerson and RCAPP responded to EKPC's objection to RCAPP's intervention. Dickerson contends that "by joining this case RCAPP is attempting to obtain a reasonable contract to sell power."<sup>7</sup> RCAPP and Dickerson go on to argue that if the Commission grants EKPC's motion to rescind the Order granting intervention it would file an identical complaint and it would result in an unnecessary waste of Commission resources.

The Commission will deny Farmers', Fleming-Mason's, and EKPC's motions for the Commission to rescind its Order granting intervenor status to RCAPP. A major argument expressed by EKPC concerning the entitlement of Dickerson to a capacity payment is that Dickerson's QP does not offer adequate capacity for deferral of construction of a power plant. To grant EKPC's petition would deny potential QPs including RCAPP the opportunity to demonstrate that adequate capacity is available for deferral of power plant construction. Therefore, the Commission would in effect foreclose opportunities to develop a potential source of generation for the foreseeable future without adequate investigation.

Finally, the Commission does recognize that RCAPP's request to add Fleming-Mason as a respondent in this case is unusual; however, the Commission continues to be of the opinion that EKPC's power planning and construction plans determine the cost of capacity for all of its RECCs. If the Commission should determine that EKPC can avoid some capacity related costs, then it will

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<sup>7</sup> Complainant's Response to East Kentucky Power's Objections, June 1, 1987, page 1.

affect capacity related purchase rates for all RECCs. Therefore, the Commission will grant RCAPP's motion making Fleming-Mason a respondent in this matter. In addition, it will invite other EKPC distribution cooperatives to respond and participate in this proceeding.

After reviewing the record in this case and being advised, the Commission is of the opinion and finds that:

1. EKPC and Farmers should file a methodology to estimate avoided capacity costs of EKPC.

2. EKPC and Farmers should file estimates of avoided capacity costs for the EKPC system in accordance with the information filed under 807 KAR 5:054, Section 5(2)(b) and (c).

3. EKPC and Farmers have failed to provide the analysis and explanation necessary to support their position of zero avoided capacity costs.

4. EKPC and Farmers should file revised estimates of avoided energy costs for the EKPC system in accordance with 807 KAR 5:054, Section 5(2)(a) and (b).

5. A procedural schedule should be adopted as set forth in Appendix A of this Order.

Accordingly, findings 1, 2, 4, and 5 are HEREBY ORDERED.

Done at Frankfort, Kentucky, this 13th day of July, 1987.

PUBLIC SERVICE COMMISSION

*Richard D. Hemminger, Jr.*  
Chairman

*Paul H. Thompson, Jr.*  
Vice Chairman

*Spencer N. Williams, Jr.*  
Commissioner

ATTEST:

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Executive Director

## APPENDIX A

### APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 9892 DATED 7/13/87

#### PROCEDURAL SCHEDULE

July 30	Intervenors' and Complainant's First Information Request to EKPC Due
August 8	Response Due on First Information Request
August 21	All Parties Prefile Testimony
August 28	Intervenors' and Complainants's Second Information Request Due  EKPC's, Farmers' and Fleming-Mason's First Information Request Due
September 7	Response Due on Intervenors' and Complainant's Second Information Request  Response Due on EKPC's, Farmers' and Fleming-Mason's First Information Request
September 24	Public Hearings Scheduled 9:00 a.m., Thursday, September 24, 1987, at the Commission's Offices, Frankfort, Kentucky